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Provisional summary record of the 49th meeting
Held at Headquarters, New York, on Thursday, 22 July 2004, at 3 p.m.

President: Mr. Koonjul (Vice-President) ..... (Mauritius)

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04-43533 (E)

In the absence of Ms. Rasi (Finland), Mr. Koonjul (Mauritius), Vice-President, took the Chair.

The meeting was called to order at 3.10 p.m.

Social and human rights questions (*continued*)

(g) Human rights (*continued*)

(i) Genetic privacy and non-discrimination (*continued*)

Recommendations contained in the report of the Commission on Human Rights (E/2004/23 and E/2004/23/Corr.1 and programme budget implications thereto, contained in document E/2004/L.34) (continued)

Draft decision 34: Decision relating to Paraguay under the procedure established in accordance with Economic and Social Council resolution 1503 (XLVIII)

Draft decision 35: Corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights

1. *Draft decisions 34 and 35 were adopted.*

Draft decision 36: Globalization and its impact on the full enjoyment of human rights

2. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 36.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, China, Colombia, Congo, Cuba, Ecuador, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Panama, Poland, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Sweden, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Zimbabwe.

Against:

United States of America.

Abstaining:

Australia.

3. *Draft decision 36 was adopted by 52 votes to 1, with 1 abstention.*

Draft decision 38: Traditional practices affecting the health of women and the girl child

Draft decision 39: Publishing the report of the Special Rapporteur on the rights of non-citizens

Draft decision 40: Voluntary fund on minority-related activities

4. *Draft decisions 38, 39 and 40 were adopted.*

Draft decision 41

5. **The President** drew attention to document E/2004/23/Corr.1, which stated that draft decision 41, entitled "International year/decade on the world's minorities" should be deleted from the list of draft decisions recommended for action. Subsequent draft decisions in the report would be renumbered accordingly.

Draft decision 42: Responsibilities of transnational corporations and related business enterprises with regard to human rights

6. *Draft decision 42 was adopted.*

7. **Ms. Zack** (United States of America) said that although her delegation had joined the consensus on draft decision 42 in the Commission on Human Rights, and now in the Council, it believed that the initiative went beyond the mandate of the Subcommission on the Promotion and Protection of Human Rights. The Subcommission was not a monitoring body and the subject had been addressed elsewhere. It was Governments, not transnational corporations, that violated human rights. The Subcommission had not adequately consulted with and obtained input from all interested parties in formulating and adopting the proposed norms.

Draft decision 43: Human rights and bioethics

8. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 43.*

In favour:

Armenia, Australia, Azerbaijan, Bangladesh, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, China, Colombia, Congo, Cuba, Ecuador, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Nigeria, Panama, Poland, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Sweden, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Zimbabwe.

Against:

United States of America.

Abstaining:

None.

9. *Draft decision 43 was adopted by 52 votes to 1.*

Draft decision 44: The universal implementation of international human rights treaties

10. *Draft decision 44 was adopted.*

11. **Ms. Zack** (United States of America) said that while her delegation had joined the consensus on the draft decision and on the decision of the Commission on Human Rights to appoint a special rapporteur to conduct a study of the universal implementation of international human rights treaties, her Government rejected any assertion of obligations beyond those of the States Parties to each treaty and called on the Special Rapporteur to follow that dictum in his study of the implementation of international human rights treaties.

Draft decision 45: Dates of the sixty-first session of the Commission on Human Rights

12. *Draft decision 45 was adopted.*

Draft decision 46: Organization of work of the sixty-first session of the Commission on Human Rights

13. **The President** drew attention to the statement of programme budget implications in document E/2004/L.34.

14. **Ms. Zack** (United States of America), speaking in explanation of vote before the voting, said that draft decision 46 would authorize six fully serviced additional meetings of the Commission at its sixty-first session. The Chairperson should make every effort to organize the work of the session within the time allotted to it. Her delegation did not believe that additional meetings would be necessary. Owing to the budgetary implications of holding extra meetings, her delegation would be voting against the draft decision.

15. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 46.*

In favour:

Armenia, Australia, Azerbaijan, Bangladesh, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, China, Colombia, Congo, Cuba, Ecuador, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Panama, Poland, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Sweden, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Zimbabwe.

Against:

United States of America.

Abstaining:

None.

16. *Draft decision 46 was adopted by 53 votes to 1.*

17. **Mr. Takase** (Japan) said that his delegation was concerned about the programme budget implications associated with the failure of the Commission on Human Rights to set priorities among its activities. The Commission should develop specific measures to enhance efficiency so that it could conclude its sessions within the time allotted to it. His delegation would be working closely with other members towards more efficient management of the Commission.

18. **Mr. Caddell** (Canada) said that his Government was a strong supporter of the Commission on Human Rights and recognized the possible need for extra meetings if unforeseen events occurred. As a matter of principle, however, contingencies should not be underwritten in advance; it was best to address needs as they arose. Nevertheless, his delegation had voted in

favour of the draft decision in the belief that the Commission would organize its work as if the six additional days had not been allotted to it. He believed that the Commission could accomplish its work with its existing resources and urged it to do so.

Draft decision 48: Technical cooperation in the field of human rights in Afghanistan

19. *Draft decision 48 was adopted.*

20. **The President** recalled that the Council had adopted draft decisions 37 and 47 at its resumed organizational session of 2004.

Draft resolution E/2004/L.17/Rev.1: Question of the protection of human rights and fundamental freedoms in the context of international military operations launched to combat terrorism

21. **The President** said that he had been informed that draft resolution L.17/Rev.1 had no programme budget implications.

22. **Mr. Reyes-Rodríguez** (Cuba), speaking in explanation of vote before the voting, said that draft resolution E/2004/L.17/Rev.1 had been widely discussed in informal consultations and included the shared views of many delegations. Contrary to arguments that would be put forward by some delegations, the draft resolution did not duplicate other human rights initiatives and addressed areas not covered elsewhere. Some delegations, unfortunately, would not be able to vote as they might have wished because of pressures exerted on them. No objection could be raised to the draft resolution on the grounds of ethics or morality or international law, since it set out to defend values and principles. The votes against it would be cast by countries that normally voted in favour of condemning developing countries. The votes cast in red against the draft resolution would reflect the colour of shame. Delegations that voted against the draft resolution would have to answer to the public, who demanded that human rights should be respected in connection with counter-terrorism activities. By voting in favour of the draft resolution, the Council had an opportunity to show the public that it was working for all people. To reject it would be a politically motivated act reflecting the hegemony and influence of the few.

23. **Mr. van den Berg** (Observer for the Netherlands), speaking on behalf of the European Union, said that the European Union, whilst condemning unequivocally all acts of terrorism as criminal and unjustifiable, strongly believed that efforts to combat terrorist acts must at all times be carried out with full respect for human rights and fundamental freedoms and in accordance with international human rights law. Although it expressed concern about the issues mentioned in the draft resolution, it believed that they could be addressed more efficiently elsewhere.

24. The European Union and others had worked hard to ensure that Commission on Human Rights resolution 2004/87 on the protection of human rights and fundamental freedoms while countering terrorism, would be acceptable to all. It looked forward to the study by the United Nations High Commissioner for Human Rights, assisted by the independent expert. That work must not be undermined or pre-empted by a competing initiative that was limited in scope and imprecise with respect to the application of international human rights law and international humanitarian law.

25. The European Union firmly adhered to the fundamental principle that torture could never be justified under any circumstances. Freedom from torture and other cruel, inhuman or degrading treatment or punishment or from arbitrary detention was a non-derogable right and must be protected in all circumstances. However, the issue of torture was dealt with in General Assembly resolution 58/164, and Commission on Human Rights resolution 2004/41. The issue of arbitrary detention was dealt with in Commission on Human Rights resolution 1997/50. The European Union strongly supported the work of the working group on arbitrary detention and was committed to cooperating with the Commission on Human Rights to ensure that efforts to combat terrorism did not infringe upon human rights and fundamental freedoms. It preferred not to start a debate on these issues in the Council, since they were the subject of thorough discussion and active follow-up elsewhere. For those reasons, the European Union had decided to vote against the draft resolution.

26. **Mr. Vlasov** (Russian Federation) said that his Government attached great significance to strengthening international efforts to combat all forms of terrorism. There could be no justification for terrorism carried out under any pretext, and using human-rights rhetoric to legitimize terrorist acts was

absolutely unacceptable. His delegation believed that strict observance of universally recognized standards of human rights and effective protection of victims must be ensured during any counter-terrorist campaign. It had therefore consistently supported the resolutions adopted by the Commission on Human Rights and the Third Committee on the protection of human rights and fundamental freedoms while countering terrorism and on human rights and terrorism.

27. The draft resolution introduced by the representative of Cuba was a substantial addition to the resolutions mentioned and was in no way redundant or directed against any country or group of countries. It was entirely in keeping with basic international human rights standards and referred to the need for compliance with international human rights law and international humanitarian law in the context of collective efforts to counter terrorist threats. His delegation would therefore vote in favour of the draft resolution.

28. **Ms. Zack** (United States of America), in response to those who had hypocritically questioned the United States commitment to human rights, she wished to reiterate that her Government remained committed to the promotion and protection of human rights, and stood by its record in that regard. It expressed admiration for all political prisoners for their courage in standing up to tyranny and for their commitment to peaceful democratic change in the face of overwhelming odds. The United States strove for a world where all human beings were guaranteed the full enjoyment of human rights.

29. The draft resolution under consideration unnecessarily duplicated General Assembly and Commission on Human Rights resolutions, including the resolutions entitled "Protection of human rights and fundamental freedoms while countering terrorism" and "Torture and other cruel, inhuman or degrading treatment or punishment". Furthermore, the Council had already approved the mandate of an independent expert on the protection of human rights and fundamental freedoms while countering terrorism. The draft resolution therefore contributed nothing to the promotion and protection of human rights. Rather, it distracted the Council from its important work on human rights and other issues.

30. As President Bush had stated on the United Nations International Day in Support of Victims of Torture, "Freedom from torture is an inalienable human right." Her Government would not tolerate torture; it was dedicated to ensuring that the inherent dignity of human beings was respected. It was committed to investigating and prosecuting all acts of torture and undertook to prevent other cruel and unusual punishment in all territory under its jurisdiction. It strongly believed that all States that were involved in military operations, both international and domestic, must act in conformity with their obligations under international law. The United States remained committed to upholding the rule of law while countering terrorism. To that end, it would continue to support many of the existing resolutions that more comprehensively address those issues. The draft resolution under consideration was inappropriate and counter-productive, and her delegation would vote against it.

31. *At the request of the representative of the United States of America, a recorded vote was taken on draft resolution E/2004/L.17/Rev.1.*

In favour:

Benin, China, Congo, Cuba, Ecuador, Libyan Arab Jamahiriya, Malaysia, Namibia, Russian Federation, United Republic of Tanzania, Zimbabwe.

Against:

Armenia, Australia, Belgium, Canada, El Salvador, Finland, France, Germany, Greece, Guatemala, Hungary, Ireland, Italy, Japan, Nicaragua, Panama, Poland, Republic of Korea, Senegal, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Azerbaijan, Bangladesh, Belize, Bhutan, Burundi, Chile, Colombia, Ghana, India, Jamaica, Kenya, Mauritius, Nigeria, Qatar, Saudi Arabia, Tunisia, United Arab Emirates.

32. *Draft resolution E/2004/L.17/Rev.1 was rejected by 24 votes to 11, with 17 abstentions.**

33. **Mr. Sinaga** (Indonesia) said that his delegation supported the draft resolution, because it believed that human rights must always be protected in any efforts to combat terrorism. Moreover, the draft resolution did

* The delegation of Indonesia subsequently informed the Council that it had intended to vote in favour of the draft resolution.

not duplicate other resolutions with respect to human rights and terrorism and was not aimed at any one State.

34. **Mr. Rehren** (Chile) said that his delegation had abstained from the vote. Although the draft resolution at issue addressed a number of pertinent concerns relating to the protection of human rights in all contexts, including international military operations, it overlapped with Commission on Human Rights resolution 2004/87, on the protection of human rights and fundamental freedoms while countering terrorism, which had been adopted by consensus. It would be more appropriate to include the concerns expressed in the draft resolution in the report of the independent expert referred to in resolution 2004/87.

35. The draft resolution submitted by Cuba contained a number of elements which could give rise to political polemics and could be interpreted as a follow-up to the discussions of the Commission on Human Rights. In that connection, he insisted on the need to depoliticize the treatment of human rights questions and reiterated his delegation's support for the various human rights monitoring mechanisms of the Commission on Human Rights, which were the best means of determining the human rights situation in individual countries and cooperating with the authorities concerned.

36. **Ms. Cendeño Reyes** (Observer for Venezuela) expressed her disappointment that the Council had rejected the draft resolution. The protection of human rights and the strict application of international human rights law in military operations had become an urgent priority for the international community and, in that connection, the draft resolution had merit.

37. **Mr. Reyes-Rodríguez** (Cuba) said that, in spite of the Council's rejection of the draft resolution, he felt satisfied that a considerable number of States had, by voting in favour, expressed their distaste for the hegemony exercised by certain nations. By denouncing such unseemly behaviour and calling for an end to impunity, the peoples of countries whose actions were guided by the quest for reason, truth and justice would emerge victorious.

Draft decision E/2004/L.21: Commission on Human Rights decision 2004/117 on human rights and human responsibilities

38. **The President** said that he had been informed that draft decision E/2004/L.21 had no programme budget implications. Andorra, Japan and Peru had become sponsors.

39. **Mr. Reyes-Rodríguez** (Cuba), speaking in explanation of vote before the voting, said that draft decision E/2004/L.21 undermined the principles enshrined in the Universal Declaration of Human Rights, which clearly acknowledged the interrelationship between human rights and responsibilities. In Cuba, four centuries of colonial domination, followed by neo-colonial domination and a military coup, had served to illustrate that the individual enjoyment of human rights was devoid of meaning in the absence of respect for the rights of others. In that regard, the pre-draft declaration on human social responsibilities was particularly important for disadvantaged populations and those living in poverty, as it provided an opportunity to ensure that States complied with their responsibilities towards their nationals. Commission on Human Rights decision 2004/117 was a purely procedural decision that afforded all interested parties the freedom to express their views on the pre-draft declaration. Draft decision E/2004/L.21 prejudged the content of that document and sought to prevent the international community from exercising its freedom of expression.

40. **Ms. Al Haj Ali** (Observer for the Syrian Arab Republic) stressed the importance of protecting and promoting human rights and expressed her delegation's support for the relevant United Nations mechanisms. In that regard, any human rights activities carried out by the international community must complement the work of the United Nations system and, in particular, that of the Commission on Human Rights. The draft decision at issue represented an attempt to undermine the work and credibility of the Commission and the Office of the United Nations High Commissioner for Human Rights. The Council should not entertain such attempts, which also called into question some States' commitment to the protection and promotion of human rights and fundamental freedoms. Her delegation reserved the right to return to the issue before the next session of the General Assembly.

41. **Mr. Aho-Glele** (Benin) expressed his surprise that a procedural decision of one of the Council's functional commissions had been called into question. He appealed to the Council to resist the attempt to undermine the competence of the Commission on Human Rights and announced his intention to vote against the draft decision.

42. **Ms. Espíndola** (Ecuador) said that the adoption of Commission on Human Rights decision 2004/117 did not imply the adoption of the pre-draft declaration on human social responsibilities, but had simply provided an opportunity for all States to examine the document. The pre-draft declaration upheld the principle enunciated in article 29 of the Universal Declaration of Human Rights, that everyone had duties to the community, and the internationally recognized principles of human rights set forth in the Vienna Declaration on Human Rights. The Constitution of Ecuador expressly recognized the principle of collective rights and responsibilities. Her delegation would therefore vote against draft decision E/2004/L.21.

43. **Mr. van den Berg** (Observer for the Netherlands), speaking on behalf of the European Union, informed the Council that Bulgaria, Croatia, Liechtenstein, Nicaragua and Romania had joined the sponsors.

44. The European Union strongly opposed Commission on Human Rights decision 2004/117, representing the first step towards the adoption by the United Nations of a pre-draft declaration on human social responsibilities, on both procedural and substantive grounds. With regard to procedure, a pre-draft declaration had not been mandated by the Commission on Human Rights. The Commission had merely requested the Subcommission on the Promotion and Protection of Human Rights to undertake a study on the issue of human rights and human responsibilities. As far as substance was concerned, the pre-draft declaration undermined the Universal Declaration on Human Rights, the Vienna Declaration on Human Rights and other important human rights documents. It aimed to make human rights conditional and, as such, represented a direct attempt to undermine the very foundations of international human rights law. The core premise of the pre-draft declaration, namely, that a State could determine which rights may be enjoyed by an individual in return for the exercise of certain responsibilities, was entirely inconsistent with the fundamental concepts of human rights. The European Union did not take issue with the idea that members of any society had responsibilities towards each other and the community: those duties were already covered by article 29 of the Universal Declaration of Human Rights. However, the conditional linkage between rights and responsibilities could not go unchallenged.

45. As confirmed by the legal opinion of 20 July 2004, it was entirely within the mandate of the Council, as the parent body of the functional commissions, to overturn, when necessary, decisions of one of its subordinate bodies. He called on all Member States that championed the fundamental principles of human rights — universality and access for all — to support draft decision E/2004/L.21.

46. **Mr. Rehren** (Chile) said that Chile had voted against the adoption of decision 2004/117 at the sixtieth session of the Commission on Human Rights and intended to vote in favour of draft decision E/2004/L.21, on the grounds that the pre-draft declaration represented a challenge to the universality of human rights.

47. **Ms. Zack** (United States of America) endorsed the remarks made by the Observer for the Netherlands on behalf of the European Union and said that her delegation would be voting in favour of draft decision E/2004/L.21. While, in accordance with the Universal Declaration of Human Rights, human rights were universal and inalienable, the pre-draft declaration on human social responsibilities introduced an element of conditionality into the exercise of those rights and, as such, represented an attempt to undermine international human rights law.

48. **Mr. Reyes-Rodríguez** (Cuba), speaking on a point of order, said that it was his understanding that sponsors were not entitled to make statements in explanation of vote before the voting.

49. **The President** said that, in principle, sponsors were not entitled to make such statements.

50. **Mr. Vlasov** (Russian Federation) said that, in adopting decision 2004/117, the Commission on Human Rights had in no way overstepped its mandate. Consequently, his delegation would vote against draft decision E/2004/L.21, which represented a procedural attempt to avoid taking action on decision 2004/117.

51. **Mr. Zhang** Yishan (China) said that the pre-draft declaration on human social responsibilities was an important document designed to define the relationship between human rights and human responsibilities in order to enhance the fuller realization of those rights. Under Commission on Human Rights decision 2004/117, all interested parties would be requested to

express their views on the pre-draft, whereas the draft decision at issue, submitted by the European Union, attempted to arbitrarily and unreasonably deprive all parties of that right. The European Union, self-styled defender of the freedom of speech, valued only the freedom that served its own interest, and opposed the freedom that involved the expression of opinions that differed from its own. Such an approach was deeply regrettable, and his delegation would therefore be voting against draft decision E/2004/L.21.

52. **Mr. Vengesa** (Zimbabwe) observed that Commission on Human Rights decision 2004/117 was merely a procedural decision designed to give all Member States an opportunity to comment on the pre-draft declaration. While affording themselves that opportunity, the supporters of draft decision E/2004/L.21 sought to deny it to others, and consequently he would be voting against the draft decision.

53. **Mr. Reyes-Rodríguez** (Cuba) said that he would be voting against the draft decision and urged other delegations to do the same. While its supporters used the freedom of expression as a pretext to defend the continued existence of racist groups such as the Ku Klux Klan, they sought to deny others that right. Draft decision E/2004/L.21 was the expression of a fundamentalist and egotistical attitude that questioned the universality of human rights.

54. **Mr. Sinaga** (Indonesia), recalling that his delegation had been a strong supporter of decision 2004/117 when it had been discussed in the Commission on Human Rights, pointed out that the only purpose of that decision had been to seek the views of Member States and institutions on the pre-draft declaration on human social responsibilities, compile those views, and transmit them to the next session of the Commission. It provided an opportunity to discuss human rights and human responsibilities, and did not place conditions, restrictions or limits on human rights. The interrelationship between human rights and human responsibilities was a cornerstone of international humanitarian law and was reflected in international and regional human rights conventions. He urged the Council to reflect on the matter, and not to lend its support to draft decision E/2004/L.21.

55. **Mr. Gopinathan** (India) said that he shared the concerns of the repres ntatives of China and Indonesia. As a sponsor of decision 2004/117 in the Commission on Human Rights, his Government would vote against the draft decision proposed by the European Union. He was not convinced by the reasoning offered by the Observer for the Netherlands on behalf of the European Union, and wondered what had motivated draft decision E/2004/L.21, since the only purpose of Commission on Human Rights decision 2004/117 had been to seek Member States' views. Similarly, he could see no valid reason to suggest that article 29 of the Universal Declaration of Human Rights made Commission on Human Rights decision 2004/117 superfluous. While draft decision E/2004/L.21 could not be challenged from a technical point of view, he believed that it was a morally questionable procedural manoeuvre that was inconsistent with the practices of the United Nations.

56. *At the request of the representative of Cuba, a recorded vote was taken on draft decision E/2004/L.21.*

In favour:

Armenia, Australia, Belgium, Canada, Chile, Congo, El Salvador, Finland, France, Germany, Greece, Guatemala, Hungary, Ireland, Italy, Japan, Nicaragua, Panama, Poland, Republic of Korea, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against:

Azerbaijan, Bangladesh, Belize, Benin, Bhutan, China, Colombia, Cuba, Ecuador, Ghana, India, Indonesia, Jamaica, Kenya, Libyan Arab Jamahiriya, Malaysia, Mozambique, Namibia, Nigeria, Qatar, Russian Federation, Saudi Arabia, Tunisia, United Arab Emirates, Zimbabwe.

Abstaining:

Armenia, Burundi, Mauritius, Senegal, United Republic of Tanzania.

57. *Draft decision E/2004/L.21 was rejected by 25 votes to 24, with 5 abstentions.*

Draft decision E/2004/L.36: Extension of the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography

58. **Ms. Pliner-Joseph** (Secretary of the Council) said that, according to the Office of the Controller, the programme budget implications of the decision would be US$ 38,800 per year, under section 24 (Human rights). The mandate of the Special Rapporteur fell

under the category of activities considered to be of a perennial nature. Provisions had already been included in section 24 of the programme budget for the current biennium and would be included in the proposed programme budget for the biennium 2006-2007. Adoption of the draft decision would therefore involve no additional appropriation.

59. *Draft decision E/2004/L.36 was adopted.*

60. **Mr. Ndiaye** (Director, New York Office of the Office of the United Nations High Commissioner for Human Rights) clarified that the text needed to extend the mandate of the Special Rapporteur should have been included in the omnibus resolution on the rights of the child. However, that text had been overlooked and thus omitted from the omnibus resolution. The draft decision which the Council had just adopted had been submitted to it with the sole aim of correcting the error.

(h) Permanent Forum on Indigenous Issues (*continued*)

61. The President invited the Council to take action on the five draft decisions contained in the report of the Permanent Forum on Indigenous Issues on its third session (E/2004/43), the programme budget implications of which were set out in document E/2002/L.37.

Draft decision I: Intersessional meeting of the Permanent Forum on Indigenous Issues

62. **The President** drew attention to the proposed amendment to draft decision I contained in document E/2004/L.41. If it was adopted, the programme budget implications indicated in document E/2004/L.37 would be adjusted accordingly.

63. **Ms. Marselius** (Sweden), speaking on behalf of the sponsors, explained that the proposed amendment in document E/2004/L.41 would make the intersessional meeting of the Forum a pre-sessional meeting, significantly reducing the costs involved and promoting an effective and productive fourth session of the Forum, especially in the light of the fact that in 2005, 10 of the 16 members of the Forum would be new.

64. *The amendment in document E/2004/L.41 was adopted.*

65. **Ms. Zack** (United States of America), speaking in explanation of vote before the voting, said that her Government had supported the establishment of the Permanent Forum on Indigenous Issues, which was beginning to fulfil its goal of mainstreaming the concerns of indigenous communities into the work of the United Nations system. However, draft decision I, as amended, would authorize on an exceptional basis a three-day pre-sessional meeting of the Permanent Forum, giving rise to programme budget implications. While acknowledging the efforts made to reduce the costs, her delegation believed that they should be met from existing regular budget provisions or voluntary contributions.

66. *A recorded vote was taken on draft decision I, as amended.*

In favour:

Armenia, Australia, Azerbaijan, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, Congo, Ecuador, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, Ireland, Italy, Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Panama, Poland, Republic of Korea, Russian Federation, Sweden, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Zimbabwe.

Against:

Bangladesh, Colombia, India, Indonesia, Malaysia, United States of America.

Abstaining:

China, Qatar, Saudi Arabia, Senegal, United Arab Emirates.

67. *Draft decision I, as amended, was adopted by 42 votes to 6, with 5 abstentions.*

68. **Mr. Takase** (Japan) said that his Government supported and valued the work of the Permanent Forum on Indigenous Issues, but firmly believed that financing for that work should come from existing regular budget resources or voluntary contributions, as the Council had decided in its resolution 2000/22 on the establishment of the Permanent Forum. However, because the membership of the Forum was changing for the first time, Japan considered a pre-sessional meeting to be important, and had voted in favour of draft decision I, as amended.

Draft decision II: Workshop on free, prior and informed consent

69. **Ms. Zack** (United States of America), speaking in explanation of vote before the voting, said that draft decision II would authorize a three-day workshop recommended by the Permanent Forum on Indigenous Issues, giving rise to programme budget implications. Her delegation believed that the costs involved should be met from existing regular budget provisions or voluntary contributions.

70. *A recorded vote was taken on draft decision II.*

In favour:

Armenia, Azerbaijan, Belgium, Belize, Benin, Bhutan, Burundi, Canada, Chile, Congo, Cuba, Ecuador, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, Ireland, Italy, Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Panama, Poland, Republic of Korea, Russian Federation, Sweden, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Zimbabwe.

Against:

Bangladesh, Colombia, India, Indonesia, Malaysia, Qatar, Saudi Arabia, United Arab Emirates, United States of America.

Abstaining:

Australia, China, Senegal.

71. *Draft decision II was adopted by 42 votes to 9, with 3 abstentions.*

72. **Mr. Takase** (Japan), reiterating his Government's belief that the work of the Permanent Forum on Indigenous Issues should be financed from existing regular budget resources or voluntary contributions, said that Japan had voted in favour of draft decision II in spite of its programme budget implications, having been informed that the Permanent Forum had examined its priorities for workshops and had included only one such event in its recommendations to the Council.

Draft decision III: Venue and dates for the fourth session of the Permanent Forum on Indigenous Issues

73. **Ms. Groux** (Observer for Switzerland), read out the following amendment to draft decision III:

> "The Economic and Social Council decides that the fourth session of the Permanent Forum will be held at United Nations Headquarters in New York from 16 to 27 May 2005."

74. *Draft decision III, as orally amended, was adopted.*

Draft decision IV: Provisional agenda for the fourth session of the Permanent Forum on Indigenous Issues

75. *Draft decision IV was adopted.*

Draft decision V: Proposal for a second international decade of the world's indigenous peoples

76. **Ms. Groux** (Observer for Switzerland), read out the following amendment to draft decision V:

> "The Economic and Social Council decides to transmit to the General Assembly the recommendation contained in draft decision V on the proclamation of a second international decade of the world's indigenous peoples, to begin in January 2005. The Economic and Social Council further recommends that in its consideration, the General Assembly, inter alia: identifies goals for a second decade, taking into account the achievements of the first decade; identifies a Coordinator that would coordinate the programme of activities of a second decade; and addresses the question of human and financial resources to be made available in support of the activities undertaken in the framework of the decade, including the possible continuation of the Voluntary Fund established by resolution 49/214 of 23 December 1994."

77. *Draft decision V, as orally amended, was adopted.*

Draft decision proposed by the Observer for Switzerland

78. **Ms. Groux** (Observer for Switzerland), read out the following draft decision for consideration by the Council:

> "Taking note of the report of the third session of the Permanent Forum on Indigenous Issues (E/2004/43), and taking note of the serious concerns and reservations on paragraph 52 as contained in document E/2004/SR.48, the Economic and Social Council decides to transmit

those concerns and reservations to the Permanent Forum and requests the Permanent Forum to take them into account in its work, in accordance with its mandate as contained in resolution E/2000/22."

79. *The draft decision proposed orally by the Observer for Switzerland was adopted.*

80. **Mr. Zhang** Yishan (China) said that his delegation supported the draft decision, but wished to know if it had a title.

81. **The President** said that he assumed the title of the draft decision was "Report of the third session of the Permanent Forum on Indigenous Issues".

82. **Mr. Sinaga** (Indonesia) said that his Government's consistent spirit of support for and cooperation with the Permanent Forum on Indigenous Issues had inspired it to join the consensus on the draft decision. The Council had strongly and clearly expressed its concern regarding the work of the Permanent Forum. He reiterated his Government's rejection of paragraph 52 of the report of the third session of the Permanent Forum, which should be amended substantially or deleted. Indonesia's patience was not inexhaustible, and the Permanent Forum must not breach the trust of his country's 220 million people. Indonesia would never accept separatism which endangered the integrity of what was the world's third-largest democracy. His delegation assumed that, in accordance with the decision just adopted, the Council would take the action necessary to reflect the concerns and reservations which Indonesia had already expressed in the general debate on agenda item 14 (h).

83. **Mr. Bernal** (Colombia) said that at the previous meeting, his delegation had clearly set out its grounds for disputing the objectivity of the report of the third session of the Permanent Forum on Indigenous Issues. Colombia supported the Permanent Forum, having believed from the outset that indigenous issues deserved urgent representation through a dedicated body devoted to promoting and protecting human rights and acting in a balanced, impartial, objective, non-selective and universal manner. If the Permanent Forum adhered to those principles, its prestige and credibility would grow, but if it disregarded, distorted or diluted them, its prestige and credibility could only suffer. The Council was under an obligation to review the actions and reports of its subsidiary bodies; Colombia therefore urged it to undertake a review of the Permanent Forum's working methods so that they could be better directed.

84. Although Colombia had joined the consensus on the draft decision, it shared the view of the representative of Indonesia that paragraph 52 of the report should have been amended or corrected. Believing that the Permanent Forum had overstepped its mandate, his Government had appealed to it, in a constructive spirit, to correct the situation. Difficult negotiations had failed to bring that about, so he trusted that the Council would transmit the concerns expressed. The situation must be prevented from recurring in the future; if it did, it would harm the credibility of the Permanent Forum, and that of the Council itself.

Implementation of and follow-up to major United Nations conferences and summits (*continued*)

(b) Review and coordination of the implementation of the Programme of Action for the Least Developed Countries for the Decade 2001-2010 (*continued*)

Draft resolution E/2004/L.39: Implementation of the Programme of Action for the Least Developed Countries for the Decade 2001-2010

85. **Mr. Al-Sulaiti** (Qatar), introducing draft resolution E/2004/L.39 on behalf of the Group of 77 and China, said that it was brief, procedural and aimed to reassert the importance of the Brussels Declaration and the Programme of Action for the Least Developed Countries. The Group of 77 and China were confident that the development partners would support it.

86. **The President** said that action would be taken on draft resolution L.39 the following day.

The meeting rose at 5.30 p.m.